

**REMARKS**

Claims 1-124 are pending in the application. Claims 1-17 and 29-44 have been examined and claims 18 -28 and 45 -124 have been withdrawn from consideration as directed to non-elected subject matter. Claims 1, 10, 11-13, 29 and 41 are amended. Claims 2-9, 18-28 and 45-124 are cancelled without prejudice or disclaimer. No new matter is added by the amendments. Accordingly, claim 1, 10 -17 and 29-44 will be pending in the application upon entry of the amendments presented herein.

Amendment and cancellation of the claims herein are not to be construed as acquiescence to any rejection/objection set forth in the Office Action and were done solely to expedite prosecution of the application. Applicants reserve the right to pursue the subject matter of the claims as originally filed, or similar claims, in this or one or more subsequent patent applications.

Pages 1, 10 and 56 of the application have been amended. In particular, page 1 has been amended to clarify the statement of government support. The amendments to pages 10 and 56 are described below.

**I. The objections to the specification are overcome**

The priority information on the first page of the specification is objected to because it does not match the information on the Bib Data Sheet. It is respectfully submitted that the amendment to the specification submitted on January 6, 2006, which is available on PAIR, does match the information on the Bib Data Sheet and therefore, correctly amends all priority claims to related applications. If it is believed that this amendment is in need of correction, further clarification as to any perceived defect in the amendment is requested from the Examiner.

Objections to the specification are additionally made on the basis of an improper browser executable code and incomplete references in the figure descriptions. Correction of the paragraphs containing the code and the figure descriptions have been made by amendment to the specification.

Page 14 of the figures is objected to because the sequences in the Detailed Results section lack SEQ ID NOS or accession numbers. It is believed that the amendments to the Brief Description of the Drawings submitted on January 6, 2006 do

properly identify these sequences in Figs. 12A and 12B by making reference to SEQ ID NOS 9–16.

Accordingly, reconsideration and withdrawal of the present objections to the specification are respectfully requested.

**II. The objections to the claims are overcome**

Claims 1–17, 29 and 41 are objected to for containing various informalities. Claims 2–9 are among the claims cancelled by entry of this amendment. Claim 29 has been amended to refer to a Heat Shock Protein (HSP) rather than an HSP. Claims 1 and 29 have been amended to specify the elected species of SEQ ID NO: 3, which is HSP 90a. Claims 10 -17 depend from directly or indirectly from claim 1, and claim 41 depends from claim 29; these claims are also corrected by entry of the amendment. Accordingly, Applicants respectfully request reconsideration and withdrawal of the objections to the claims.

**III. The rejections under 35 U.S.C. § 112, second paragraph are overcome**

Claims 12 and 29–44 are rejected under 35 U.S.C. § 112, second paragraph as being indefinite for failing to particularly point out and distinctly claim the subject matter which Applicant regards as the invention. Claim 1 has been amended to specify the elected species of SEQ ID NO: 3, which is HSP 90a. Claim 12 depends from claim 1 and, therefore, is corrected by entry of the amendment. Claims 29–44 have been amended to refer to the elected species of SEQ ID NO: 3, which is HSP 90a. Claims 30–44 depend from claim 29 and, therefore, are also corrected by entry of the amendment. Accordingly, Applicants respectfully request reconsideration and withdrawal of the rejections to the claims under 35 U.S.C. § 112, second paragraph.

**IV. The rejections under 35 U.S.C. § 112, first paragraph are overcome**

Claims 1–17 and 29–44 are rejected under 35 U.S.C. § 112, first paragraph as containing subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventors, at the time that the application was filed, had possession of the claimed invention. Claims 1–17 and 29–44 are rejected under 35 U.S.C. § 112, first paragraph because the specification,

while being enabling for the protein set forth in SEQ ID NO: 3, does not reasonably provide enablement for any HSP, HSPLP, L-Plastin or LPLP or fragment thereof. Applicants respectfully traverse the rejection.

Claims 2–9 are among the claims cancelled by entry of this amendment. Claims 1 and 29 have been amended to refer to the elected species of SEQ ID NO: 3, which is HSP 90 $\alpha$ . Claims 1 and 29 have been further amended to specify that the fragment of HSP 90 $\alpha$  is that of SEQ ID NO: 47, which is described on page 19, lines 4–14 and in Figure 12C of the instant application.

The Office Action sets forth the admission that claims 1 and 29 are supported by an enabling disclosure for SEQ ID NO: 3 (i.e., HSP 90 $\alpha$ ). See page 9, first paragraph of the Office Action dated November 16, 2007. Claims 1 and 29, as amended, are now also directed to a fragment of SEQ ID NO: 3 that is enabled and supported by the written description of the instant application. Claims 10–17 depend from directly or indirectly from claim 1, and claim 41 depends from claim 29. Therefore, these claims are also enabled and supported by the written description of the application. Accordingly, Applicants respectfully request reconsideration and withdrawal of the rejections to the claims under 35 U.S.C. § 112, first paragraph.

#### **V. The rejections under 35 U.S.C. § 102 are overcome**

Claims 1–7 and 9 are rejected under 35 U.S.C. § 102(b) as being anticipated by WO/52791. Claims 2–9 are among the claims cancelled by entry of this amendment. Applicants respectfully traverse the rejection.

To form the basis of a proper rejection under 35 U.S.C. § 102(b), a cited reference must disclose each and every element of the rejected claim. See *Lewmar Marine Inc. v. Barient Inc.*, 3 U.S.P.Q.2d 1766 (Fed. Cir. 1987) and Manual of Patent Examining Procedure (MPEP) § 2131.

The cited reference, WO/52791, describes only pharmaceutical compositions having both a Heat Shock Protein peptide binding fragment and a noncovalently associated antigenic molecule. Claim 1, as amended herein, refers to a pharmaceutical composition consisting of an isolated heat shock protein (HSP) of SEQ ID NO:3, or a fragment thereof consisting of SEQ ID NO: 47, in an effective amount to promote fugatactic activity and a pharmaceutically acceptable carrier. Amended claim 1 now

excludes a noncovalently associated antigenic molecule from the claimed composition. In addition, WO/52791 does not describe an isolated SEQ ID NO: 47. It is therefore respectfully submitted that WO/52791 fails to disclose one or more elements of the claimed invention and should be removed from consideration under 35 U.S.C. § 102(b). Accordingly, reconsideration and withdrawal of the present rejections to the claims are respectfully requested.

**CONCLUSION**

In view of the foregoing amendments and remarks presented herein, Applicants respectfully request reconsideration and withdrawal of all rejections and allowance of the application with all pending claims. If a telephone conversation with Applicants' attorney(s) would help to expedite the prosecution of the application, Applicants invite the Examiner to contact the undersigned at the telephone number listed below.

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Respectfully submitted,

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